

1 UNITED STATES DISTRICT COURT
 2 EASTERN DISTRICT OF TENNESSEE
 3 GREENEVILLE

4 TREVOR FERLEY, . DOCKET NO. CV-2-12-51
 5 PLAINTIFF, .
 6 VS. . GREENEVILLE, TN
 7 WATAUGA ORTHOPAEDIC, PLC, . SEPTEMBER 17, 2013
 8 DEFENDANT. .
 9

10 TRANSCRIPT OF DEFENDANT'S OPENING STATEMENT
 11 BEFORE THE HONORABLE J. RONNIE GREER
 12 UNITED STATES DISTRICT JUDGE, AND A JURY

13 APPEARANCES:

14 FOR THE PLAINTIFF: THE HAYNES FIRM
 15 OLEN G. HAYNES, ESQ.
 16 P.O. BOX 1879
 17 JOHNSON CITY, TN 37605-1879
 18 THE GERALD GRAY LAW FIRM, PC
 19 GERALD L. GRAY, ESQ.
 20 P.O. BOX 929
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22 FOR THE DEFENDANT: HERNDON, COLEMAN, BRADING & MCKEE
 23 CHARLES T. HERNDON, ESQ.
 24 ELIZABETH M. HUTTON, ESQ.
 25 P.O. BOX 1160
 JOHNSON CITY, TN 37605-1160

26 COURT REPORTER: KAREN J. BRADLEY
 27 RPR-RMR
 28 U.S. COURTHOUSE
 29 220 WEST DEPOT STREET
 30 GREENEVILLE, TN 37743

31 PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY, TRANSCRIPT
 32 PRODUCED BY COMPUTER.

1 MR. HERNDON: IF IT PLEASE THE COURT AND
2 MEMBERS OF THE JURY:

3 I HAVEN'T REALLY GOTTEN TO TALK TO YOU YET. MY
4 NAME IS CHIP HERNDON, AND I REPRESENT WATAUGA ORTHOPAEDICS
5 AND DR. AIKEN WHO IS SITTING WITH ME AT THE TABLE TODAY.
6 NOW, WHAT LAWYERS SAY UP HERE IS NOT PROOF, AND I'M NOT A
7 DOCTOR. IF I SAY SOMETHING THAT'S CONTRADICTED LATER ON,
8 HOLD THAT AGAINST ME, NOT MY CLIENT; BUT WE HAVE A
9 DIFFERENT TAKE ON THIS MATTER THAN MR. HAYNES.

10 I LIKE TO CALL THIS KIND OF LIKE A TV GUIDE
11 THING WHERE IT TELLS YOU WHAT YOU'RE GOING TO SEE COMING
12 FROM THE WITNESS STAND, IT KIND OF HELPS YOU TO PROCESS IT
13 AS IT COMES IN. SO I'M GOING TO TRY TO LAY OUT FOR YOU
14 WHAT I THINK THE PROOF IS GOING TO SHOW TO HELP YOU IN
15 THAT WAY.

16 I'M GOING TO BEGIN THE STORY, WE KIND OF WENT
17 OVER THIS LIGHTLY, BUT IT WAS REALLY KIND OF A REALLY
18 BEAUTIFUL DAY IN OCTOBER 19TH IN THE YEAR 2010. THERE WAS
19 A WOMAN NAMED KRISTY MOORE, SHE IS AN EMT, AND MS. MOORE
20 WAS SITTING IN A DRIVEWAY ON A LITTLE TWO-LANE ROAD UP
21 THERE IN SOUTHWESTERN VIRGINIA WAITING FOR HER CHILD TO
22 COME HOME FROM SCHOOL, AND MS. MOORE LOOKS UP AND SEES
23 THIS MOTORCYCLE COMING UP OVER THE HILL TRAVELING AT A
24 HIGH RATE OF SPEED. SHE WILL TELL YOU FROM THE WITNESS
25 STAND THAT THIS MOTORCYCLE WAS DOING 60 TO 70 MILES AN

1 HOUR; THAT THAT MOTORCYCLE LOST CONTROL, WENT INTO A
2 DITCH, HIT A CULVERT, WENT AIRBORNE, STRUCK MAILBOXES AND
3 WOUND UP A LONG WAY DOWN THE ROAD. THE STATE TROOPER IS
4 GOING TO TELL YOU EXACTLY HOW FAR DOWN THE ROAD THAT WAS.

5 SHE WAS AN EMT, AND SHE RAN UP, AND SHE SAID,
6 MR. FERLEY LOOKED LIKE HE WAS CUT IN HALF, FOLDED IN HALF
7 WITH LEGS UP AROUND HIS SHOULDERS. I MEAN, IT SOUNDS KIND
8 OF ANTISEPTIC TODAY SAYING, WELL, HE WAS IN A SEVERE
9 VEHICULAR ACCIDENT. IT WAS AWFUL. SHE DIDN'T EVEN
10 ATTEMPT TO MANIPULATE OR MANEUVER HIM; BUT SHE DID HAVE
11 THE NUMBERS ON HER CELL PHONE, AND SHE WAS ABLE TO TELL
12 THE MINUTE SHE TOOK A LOOK AT MR. FERLEY, I BETTER GET THE
13 HELICOPTER UP HERE; AND SO THE HELICOPTER WAS DISPATCHED
14 IMMEDIATELY. THE EMERGENCY WORKERS GOT THERE JUST LIKE
15 THAT, AND HE WAS AT THE HOSPITAL IN JOHNSON CITY IN 40
16 MINUTES.

17 HIS LUNGS WERE FAILING AT THE SCENE, AND HE HAD
18 TO BE INTUBATED. NOW, THAT'S NO SMALL THING. THAT'S WHEN
19 SOMEBODY IS BREATHING FOR YOU. THEY PUT IT DOWN INTO YOUR
20 LUNGS, AND THEY START BREATHING FOR YOU. THAT'S NOT JUST
21 ARTIFICIAL RESPIRATION, THAT'S WHERE THEY'RE ACTUALLY
22 BREATHING FOR YOU WITH A MACHINE, AND THEY STARTED
23 BREATHING FOR HIM THERE AT THE SCENE. AND, YES, HEY GOT
24 HIM TO THE JOHNSON CITY MEDICAL CENTER QUICKLY.

25 HE WAS SEEN BY A NUMBER OF VERY SKILLED TRAUMA

1 PEOPLE, DR. COBBLE, WE'LL BE CALLING HER AND YOU CAN HEAR
2 HER TESTIMONY; DR. LOCKETT WHO IS IN SOUTH CAROLINA NOW,
3 AND HE'S NOT AVAILABLE, BUT SEVERAL PHYSICIANS LOOKED AT
4 HIM; AND, YES, HE DID, HE DID HAVE INJURIES. WE KIND OF
5 WENT OVER THOSE VERY BRIEFLY WITH MR. HAYNES, BUT YOU NEED
6 TO UNDERSTAND WHAT THESE INJURIES REALLY WERE.

7 STARTING WITH THE RIGHT LEG. YEAH, HE DID HAVE
8 A FRACTURE TO HIS FEMUR. ACTUALLY WHAT REALLY HAPPENED
9 WAS HIS FEMUR WAS BROKEN JUST LIKE THAT AND HAD COME RIGHT
10 ON OUT OF HIS LEG; THAT WAS THE RIGHT LEG. THE LEFT LEG,
11 HE HAD A HIP DISLOCATION THAT AS ONE DOCTOR WILL TELL YOU
12 IS PROBABLY THE SECOND WORST ONE HE HAS EVER SEEN IN HIS
13 LIFE. IT WAS NOT ONLY PUSHED IN AND FRACTURED, BUT IT WAS
14 RIPPED RIGHT OUT OF THE SOCKET.

15 MOVING ON UP, WE DIDN'T HEAR ABOUT HIS BACK.
16 HE FRACTURED HIS BACK IN TWO PLACES. HIS CLAVICLE, HIS --
17 WHAT WE CALL THE COLLAR BONE. HE HAD A FIRST RIB FRACTURE
18 WHICH TAKES TREMENDOUS VELOCITY TO FRACTURE. HE HAD
19 FRACTURES OF HIS RADIUS AND HIS ULNAR BONE IN THE LEFT
20 HAND, WHICH IS DESCRIBED IN ONE PLACE AS ALMOST RIPPING
21 HIS LEFT ARM OFF, AND HE HAD A HUMERUS FRACTURE MOST
22 LIKELY FROM THE MEDICAL RECORDS FROM SUSTAINING BLOWS SO
23 SEVERE TO HIS RIGHT ARM THAT IT ALMOST RIPPED HIS RIGHT
24 ARM OFF. HE HAD NOT JUST A LITTLE CUT BETWEEN HIS
25 FINGERS, BUT HE HAD A RIP BETWEEN THESE TWO FINGERS OF HIS

1 RIGHT HAND THAT NECESSITATED SURGERY INTO THE END OF HIS
2 HAND. HIS SPLEEN WAS RUPTURED. HIS CHEST, HIS, HIS
3 PULMONARY CHEST WAS BRUISED AND CONTUSED, AND, LITERALLY,
4 THEY HAD TO STICK TUBES INTO WOUND UP BOTH SIDES OF HIS
5 CHEST JUST TO -- BECAUSE HE HAD AIR BETWEEN HIS LUNGS AND
6 HIS CHEST WALL, JUST SO THEY COULD EXPAND WITH THE MACHINE
7 BREATHING FOR HIM. I MEAN, THESE WERE SEVERE, CRITICAL,
8 TERRIBLE AWFUL INJURIES.

9 NOW, THE FIRST THING THEY TRIED TO DO WAS GET
10 HIM STABILIZED AND GET HIM TO SURGERY SO THEY COULD GET
11 THESE AWFUL, SOME OF THESE WORST INJURIES STABILIZED. DR.
12 AIKEN HAPPENED TO BE -- HE WASN'T ACTUALLY EVEN ON CALL,
13 HE JUST VOLUNTEERED TO DO THIS. HE IS WHAT'S CALLED A
14 TRAUMA SPECIALIST, PROBABLY AS WELL TRAINED IF NOT BETTER
15 TRAINED THAN JUST ABOUT ANYBODY YOU'LL HEAR FROM IN THIS
16 ENTIRE CASE. HE'S TAUGHT IT AROUND THE WORLD. HE'S BEEN,
17 TAUGHT IT AT OTHER COUNTRIES, HE'S TAUGHT IT TO THE
18 DOCTORS. HE'S A MEMBER OF THE NATIONAL MEDICAL DISASTER
19 SERVICE. THEY SENT HIM A GOVERNMENT I.D. AND A GOVERNMENT
20 CREDIT CARD. IF THERE'S A NATIONAL DISASTER, THEY'RE
21 CALLING HIM TO COME THERE. YOU REMEMBER THE BOSTON
22 BOMBING THAT WE HAD A COUPLE OF WEEKS AGO AND THE TEXAS
23 EXPLOSION. HE DIDN'T GET A CALL YESTERDAY BECAUSE IT WAS
24 MOSTLY GUN SHOT WOUNDS, BUT HE IS EXTREMELY WELL TRAINED,
25 EXTREMELY QUALIFIED; HAS TREATED SPORTS TEAMS EVERYWHERE,

1 ATHLETES, WORLD RECORD HOLDERS, REALLY WELL TRAINED. AND
2 HE COMES IN AND DOES AN AMAZING JOB WITH MR. FERLEY.

3 HE STABILIZES AND GETS HIS LEFT HIP BACK INTO
4 THE SOCKET, BUT HE HAS TO HAVE THIS LEG IMMOBILIZED SO IT
5 CAN'T ABDUCT AND THROW THE SOCKET OUT OF JOINT. THE RIGHT
6 LEG, HE GETS THAT PINNED; AND, OF COURSE, IT'S FIXED, AND
7 YOU'LL SEE PICTURES OF THESE THINGS, WE'VE GOT PICTURES OF
8 ALL THIS STUFF. AND, OF COURSE, IT'S WRAPPED WITH AN ACE
9 BANDAGE ALL THE WAY TO HIS FOOT, AND THE REASON FOR THAT
10 IS, OF COURSE, TO KEEP THE SWELLING DOWN AS WELL AS TO
11 PROTECT THE LEG. HIS LEFT ARM, HE GOES IN AND HE HAS TO
12 PUT PINS IN THAT, AND HE PUTS PINS IN IT AND GETS A
13 PERFECT REDUCTION, AND PINS THAT AND WRAPS THAT. HE THEN
14 GOES INTO THE RIGHT HAND, AND HE FIXES THAT, WHERE HE'S
15 RIPPED HIS HAND OPEN, AND HE WRAPS THAT. THEN HE TURNS
16 HIS ATTENTION TO THE RIGHT HUMERUS.

17 WE'RE GOING TO HEAR A LOT ABOUT THE RIGHT
18 HUMERUS, BUT THIS IS KIND OF WHAT IT LOOKS LIKE. YOU'RE
19 GOING TO SEE THE X-RAY. IT LOOKS KIND OF LIKE THAT,
20 THAT'S KIND OF WHAT THE BONES LOOKED LIKE. THEY'RE KIND
21 OF LIKE THAT. AND THE MECHANISM, WHAT HAPPENS IS THE
22 BONES ARE TOGETHER; AND WHEN YOU TAKE THIS TREMENDOUS BLOW
23 RIGHT HERE, IT SHEARS -- THESE BONES ARE TOUGH BONES,
24 THEY'RE THE BIG BONES. YOU KNOW, YOU'VE GOT A BIG BONE
25 HERE AND A BIG BONE THERE. IT TEARS THOSE BONES APART,

1 AND THEN THEY COME BACK TOGETHER LIKE THIS.

2 AND WHAT'S INTERESTING ABOUT WHERE THIS IS,
3 IT'S ABOUT MID SHAFT OF WHAT THEY CALL THE HUMERUS, ABOUT
4 RIGHT HERE, WHAT IS INTERESTING ABOUT THAT IS IF YOU LOOK
5 AT ANATOMY PHOTOGRAPHS -- AND I HAD ONE UP HERE I WAS
6 GOING TO SHOW YOU, BUT I'M JUST GOING TO TELL YOU ABOUT
7 IT. THE RADIAL NERVE JUST GOES RIGHT, IT'S RIGHT NEXT TO
8 THE BONE WHERE THIS HAPPENED. WHAT THEY CALL THE RADIAL
9 NERVE, IT'S JUST RIGHT NEXT TO THE BONE. WELL, THERE'S NO
10 WAY YOU CAN TAKE THAT BONE AND GO "BOOM BOOM" WITHOUT NOT
11 ONLY STRETCHING THAT NERVE, BUT THERE ARE OTHER NERVES UP
12 THERE TOO THAT ARE GETTING RIPPED AND TORN AND PULLED AND
13 TENSE; BUT PARTICULARLY THE RADIAL NERVE, WHICH IS RIGHT
14 UP NEXT TO THE BONE. YOU'LL SEE WHERE IT IS IN THE
15 ANATOMY STUFF; BUT --

16 AND SO DOES THAT MEAN HE'S GOING TO LOSE
17 FUNCTION OF THE RADIAL NERVE? NO, YOU DON'T KNOW. YOU
18 CAN'T TELL SOMETIMES FOR WEEKS. DOES TISSUE TAKE A
19 TREMENDOUS BEATING? YES, IT DOES. HOW BAD? WELL, YOU
20 CAN'T SEE UNDER THE SKIN. SOMETIMES YOU DON'T KNOW FOR
21 WEEKS HOW THE INJURY IS GOING TO, USE A TERM THAT'S BEEN
22 USED IN THE TESTIMONY, DECLARE ITSELF. IT TAKES A WHILE
23 SOMETIMES FOR THESE INJURIES TO DECLARE THEMSELVES.

24 HE WAS TREATED WITH WHAT'S CALLED A COAPTATION
25 SPLINT. DR. WILLIAMSON, MR. HAYNES, THE GUY YOU'RE GOING

1 TO HEAR TOMORROW, THE GUY FROM VIRGINIA BEACH WHO DIDN'T
2 KNOW WHO HIRED HIM IN THE CASE AND DIDN'T KNOW HOW HE
3 BECAME INVOLVED IN IT WHEN I ASKED HIM, HE'S GOING TO COME
4 IN AND TELL YOU THAT THEY SHOULD HAVE PUT AN EX-FIX,
5 WHAT'S CALLED AN EX-FIX ON IT, WHICH IS EXTERNAL THINGS
6 THAT YOU POKE THROUGH THE SKIN AND LATCH ONTO THE BONE.
7 HE'S GOING TO TELL YOU THAT YOU SHOULD HAVE DONE THAT.

8 THE PEOPLE WE'RE GOING TO PRESENT SAY THAT'S
9 KIND OF BIZARRE, WE HAVEN'T DONE THAT IN 20 YEARS. I
10 MEAN, PEOPLE DON'T DO THAT ANY MORE. AS A MATTER OF FACT,
11 IT'S QUESTIONED IN THE 2012 ORTHOPEDIC CERTIFICATION
12 EXAMINE, HOW DO YOU HANDLE THESE MULTIPLE TRAUMAS WITH A
13 FRACTURED HUMERUS, YOU DO IT WITH A COAPTATION SPLINT.

14 YOU KNOW, THE ONLY -- DR. WILLIAMSON WILL TELL
15 YOU HE SHOULD HAVE PUT AN EX-FIX ON, BUT PEOPLE CAN TELL
16 YOU YOU OUGHT TO PUT A HOLE IN YOUR HEAD TOO; BUT
17 DR. AIKEN TREATED HIM THE ACCEPTABLE WAY THAT PEOPLE DO
18 THAT, PARTICULARLY PEOPLE THAT HAVE TRAUMA KNOWLEDGE AND
19 TRAUMA SPECIALTY, AND HE PUT A COAPTATION SPLINT. WE'VE
20 GOT ONE, AND WE'LL SHOW IT TO YOU AS WE GET INTO THE CASE;
21 BUT IT'S KIND OF LIKE A QUASI-CAST. IT'S KIND OF LIKE A,
22 IT'S -- LOOKS KIND OF LIKE THAT. IT GOES FROM YOUR
23 AXILLA, THIS IS YOUR AXILLA, YOUR ARMPIT, IT. THEY WRAP
24 YOUR ARM IN A VERY SOFT PADDING, AND THEN THEY TAKE A
25 STRIP AND THEY PUT THAT STRIP FROM YOUR ARMPIT RIGHT OVER

1 YOUR ELBOW AND THEN BACK UP THE OTHER SIDE. AND IT'S WET
2 WHEN IT GOES ON, BUT IT HARDENS VERY QUICKLY. SO IT'S
3 KIND OF LIKE HAVING A CAST SHAPED LIKE A C, SORT OF LIKE
4 THAT. AND WE'LL HAVE PICTURES OF HOW YOU PUT THAT ON AND
5 A LITTLE VIDEO SHOWING HOW YOU PUT THAT ON. BUT THE NICE
6 THING ABOUT A COAPTATION SPLINT IS IT ALLOWS FOR SWELLING
7 AND IT ALLOWS FOR PALPATION ON BOTH SIDES SO -- AND, YES,
8 HE PUT AN ACE WRAP ON. HE WRAPPED HIM FROM THE WRIST ALL
9 THE WAY TO HIS SHOULDER, JUST LIKE HIS LEG WAS WRAPPED UP
10 AND JUST LIKE YOU'RE SUPPOSED TO DO IT. HE DID IT THE
11 ACCEPTABLE WAY.

12 MR. FERLEY REMAINED INTUBATED. THEY KEPT
13 BREATHING FOR HIM. TO USE THE EXPRESSION I THINK ONE
14 DOCTOR USED, HE WAS IN AN INDUCED COMA. IT WASN'T TRULY A
15 COMA, AND THEY COULD CUT OFF STUFF AND WAKE HIM UP A
16 LITTLE BIT; BUT HE WAS INTUBATED WHERE THEY WERE BREATHING
17 FOR HIM FOR -- UNTIL ALMOST, UNTIL REAL LATE IN THE DAY ON
18 THE 25TH. SO HE WAS INTUBATED AT THE SCENE ON THE 19TH
19 AND INTUBATION CAME OUT ON THE 25TH.

20 HE WAS SEEN BY A VARIETY OF PHYSICIANS. HE WAS
21 SEEN BY EVERYTHING FROM TRAUMA SURGEONS TO TRAUMA
22 RESIDENTS TO ORTHOPEDIC SURGEONS TO PHYSICIANS ASSISTANTS.
23 HE WAS SEEN BY A VARIETY OF PHYSICIANS. THEY WERE LOOKING
24 AT HIM, THEY WERE EXAMINING HIM, THEY WERE FEELING HIS
25 ARM.

1 I'M GOING TO JUMP A LITTLE BIT AHEAD, AND I'M
2 GOING TO SAY A COUPLE OF THINGS ABOUT COMPARTMENT
3 SYNDROME. FIRST OF ALL, IT'S VERY RARE, AND IT'S VERY
4 RARE PARTICULARLY WHEN YOU'RE, WHEN YOU'VE GOT A HUMERAL
5 FRACTURE TO HAVE SOMETHING LIKE THAT IN THE LOWER ARM. WE
6 DON'T THINK HE EVER HAD COMPARTMENT SYNDROME. IT'S VERY
7 RARE; BUT WHAT WE DO KNOW ABOUT COMPARTMENT SYNDROME IS
8 IT'S GENERALLY AN ACUTE CONDITION. IT HAPPENS IN THE
9 FIRST 24 TO 48 HOURS, MAYBE A LITTLE BIT LONGER, BUT
10 THAT'S GENERALLY THE TIME FRAME.

11 NOW, IF YOU READ, IF YOU READ THE TEXT BOOKS,
12 IT WILL TELL YOU THERE'S FIVE THINGS, WAYS THAT YOU
13 DIAGNOSE IT, THE FIVE, WHAT THEY CALL THE FIVE P'S; BUT
14 WHAT THEY'RE BASICALLY LOOKING AT IS HOW IS YOUR CIRCULATION,
15 WHAT'S THE CIRCULATION LIKE, IS THAT CUT OFF.

16 WELL, HE ALWAYS HAD GOOD CIRCULATION RIGHT UP
17 UNTIL NOVEMBER 2ND WHEN THEY DID THE SURGERY; BUT THE
18 THING THAT THE DOCTORS REALLY -- THE DIAGNOSTICIANS AND
19 WHAT THEY REALLY LOOK AT IS HOW FIRM IS THIS TISSUE. YOU
20 SEE IT IN THE ARMS AND THE LEGS, AND WHAT THEY TELL YOU IS
21 IF YOU HAVE COMPARTMENT SYNDROME, IT FEELS LIKE THAT. IF
22 YOU RAPPED ON THAT BENCH RIGHT THERE IN FRONT OF YOU,
23 THAT'S WHAT IT FEELS LIKE. IT BECOMES A VERY TENSE
24 COMPARTMENT, AND HE NEVER HAD THAT.

25 DR. AIKEN TREATED HIM THE FIRST DAY. THE

1 SECOND DAY HE WAS THERE, HE WAS PALPATING HIS ARM, HE WAS
2 FEELING IT. WE'RE GOING TO HAVE SOME ACE BANDAGES. YOU
3 CAN SEE WHETHER YOU CAN PALPATE AN ARM. HE SAYS IT'S NO
4 PROBLEM PALPATING AN ARM THROUGH AN ACE BANDAGE. IT'S
5 KIND OF LIKE MY COAT HERE OR YOUR SHIRT OR SOMETHING; BUT
6 WE'LL ENTER SOME ACE WRAPS INTO EVIDENCE SO YOU CAN SEE
7 FOR YOURSELF WHAT IT FEELS LIKE, IF YOU CAN FEEL THROUGH
8 IT; BUT HE WAS EXAMINED EVERY DAY.

9 NOW, I AGREE THAT -- I THINK HE PUT UP
10 SOMETHING THAT SAID, WELL, THE FIRST TIME THEY EVER
11 REMOVED THE BANDAGE WAS ON THE 27TH AND IT SHOWED THIS AND
12 THAT. THAT'S NOT TRUE. DR. AIKEN WAS LOOKING AT THE
13 FRACTURE BLISTERS ON HIS ARM ON THE 26TH.

14 WHAT ARE FRACTURE BLISTERS? FRACTURE BLISTERS
15 ARE CAUSED WHEN YOU HAVE SEVERE TRAUMA. FRACTURE BLISTERS
16 AREN'T CAUSED BY COMPARTMENT SYNDROME. THEY CAN, BUT MOST
17 OF THE TIME THEY'RE CAUSED BY SEVERE TRAUMA. WE'VE GOT
18 ONE FELLOW THAT TESTIFIED THAT HE'S BEEN DOING IT FOR 40
19 YEARS AND HE'S NEVER SEEN A FRACTURE BLISTER CAUSED BY A
20 COMPARTMENT SYNDROME, IT'S ALWAYS CAUSED BY A SEVERE
21 INJURY; AND THAT INJURY IS A SHEARING OF THE DERMIS AND
22 THE EPIDERMIS, THE OUTER LAYERS OF THE SKIN, A SHEARING OF
23 THAT; AND AS THE TISSUE SWELLS, IT GETS TO BE FLUID IN IT.
24 AND WHAT IT'S A SIGN OF IS, HEY, THIS INJURY IS DECLARING
25 ITSELF, THIS IS GOING TO BE A PRETTY SIGNIFICANT INJURY.

1 THERE'S NOTHING YOU CAN DO AT THAT POINT IN TIME, YOU JUST
2 HAVE TO SEE HOW IT'S GOING TO DO.

3 HE STARTS DEVELOPING FRACTURE BLISTERS. HE
4 DEVELOPS ONE RIGHT HERE. YOU'LL HEAR A LOT ABOUT THE
5 ANTECUBITAL FOSSA. THAT'S THIS JOINT RIGHT HERE, RIGHT IN
6 THE CROOK OF YOUR ARM; AND HE DEVELOPS AN AREA HERE. THEY
7 CALL IT A BURN. YOU KNOW WHY? BECAUSE IT LOOKED LIKE
8 DEAD SKIN; AND THAT'S WHAT IT WAS, IT WAS DEAD. IT GOT
9 HIT SO HARD. IT'S LIKE IF YOU THINK ABOUT HOW HARD YOU'D
10 HAVE TO HIT WITH A BASEBALL BAT TO LITERALLY KILL THE SKIN
11 IN YOUR ARM, BOTH ABOVE AND BELOW THE ELBOW, NO QUESTION
12 ABOUT THAT.

13 AND THAT'S WHY DR. FOLEY WAS CALLED IN. HE WAS
14 CALLED IN TO REPAIR A BURN, ONLY THERE WASN'T A BURN IN
15 THIS AREA, IT WAS JUST DEAD SKIN. SO DR. FOLEY COMES IN.
16 HE, HE SUPPOSEDLY EXAMINES THE ARM. HE DOESN'T SUSPECT
17 COMPARTMENT SYNDROME. HE -- NOBODY HAS EVER SAID ANYTHING
18 ABOUT THAT EVER. OUT OF 15 PHYSICIANS THAT HAVE BEEN
19 LOOKING AT MR. FERLEY AND NURSES AND PA'S AND EVERYBODY
20 ELSE, HE COMES IN AND EXAMINES IT AND HE SAYS, YEP, I
21 THINK I NEED TO DO A LITTLE SURGERY HERE. WE'RE GOING TO
22 DO A SKIN GRAFT, SO WE'LL SCHEDULE HIM IN A COUPLE OF
23 DAYS; AND THEN HE COMES BACK AND SEES HIM TWO OR THREE
24 TIMES AFTER THAT AND NEVER MAKES A NOTE OF IT, BUT. SO,
25 YEAH, HE SEES IT. HE DOESN'T SUSPECT ANYTHING LIKE THAT.

1 SO, FINALLY, NOVEMBER 2ND COMES AROUND. HE'S
2 NO LONGER, MR. FERLEY IS NO LONGER INTUBATED AT THAT TIME.
3 HE'S STILL BEING GIVEN A LOT OF PAIN MEDICATION AND OTHER
4 SUPPORTIVE KIND OF THINGS, BUT HIS PAIN READINGS ARE
5 NEVER -- WE'RE GOING TO SHOW THEM ALL TO YOU SO YOU CAN
6 SEE. WE'VE KIND OF GOT IT GRAPHED OUT WHERE YOU CAN SEE
7 WHAT THEY ARE. THEY SAY IF YOU'VE GOT COMPARTMENT
8 SYNDROME, YOUR PAIN IS 11 ON A 1 TO 10, IT'S THAT BAD; BUT
9 WE'LL SHOW THOSE TO YOU SO YOU'LL HAVE THE BENEFIT OF
10 SEEING ALL THAT.

11 BUT DR. FOLEY -- DR. JENKINS COMES IN. WHEN
12 THEY DO A SKIN GRAFT -- DO YOU WANT ME TO BREAK NOW, YOUR
13 HONOR?

14 THE COURT: THEY'LL LET ME KNOW, THAT'S --

15 MR. HERNDON: OKAY.

16 WHEN THEY DO A SKIN GRAFT ON YOUR ARM, YOU
17 KNOW, THEY TAKE SKIN AND THEY GRAFT IT ON, BUT YOU CAN'T
18 HAVE ANY MOVEMENT AT ALL, ZERO MOVEMENT; SO FOR THAT
19 REASON THEY REQUEST THAT THE ORTHOPEDIC SURGEONS PUT A PIN
20 IN THE ARM. SO WE SAID, FINE, WE'RE AVAILABLE.
21 DR. JENKINS COMES IN. DR. JENKINS TESTS THE ARM. HE
22 SAID, WELL, IT DOESN'T LOOK LIKE I'M GETTING NERVE
23 FUNCTION BELOW THE FRACTURE SITE. HE TESTED ABOVE THE
24 ELBOW AND BELOW THE ELBOW, SAID, YOU KNOW, I'M JUST NOT
25 GETTING ANY NERVE RESPONSE. NOW, DOES THAT MEAN HE'S LOST

1 THAT FOR GOOD? WHO KNOWS. YOU JUST CAN'T TELL BECAUSE
2 THOSE STRETCHED NERVES, SOMETIMES THEY REGENERATE,
3 SOMETIMES THEY DON'T. BUT HE SAID, I'M GETTING GREAT
4 PULSES. HE'S GOT GREAT PULSES DOWN HERE, HE'S GOT GREAT
5 CAPILLARY REFILL. THAT'S WHEN YOU PUSH ON IT AND IT TURNS
6 WHITE AND YOU WAIT TO SEE HOW LONG IT TAKES TO COLOR; BUT
7 THAT'S WORKING GOOD, HIS HAND IS NICE AND WARM, YOU KNOW;
8 BUT HE COULD TELL FROM LOOKING AT HIS ARM THAT HE THOUGHT
9 HE HAD A SIGNIFICANT TRAUMATIC INJURY, NOT COMPARTMENT
10 SYNDROME, BUT TRAUMATIC INJURY.

11 AND HE MADE A NOTE, THIS WAS BEFORE ANY OF THIS
12 STUFF HAD COME UP, RIGHT -- MOTORCYCLE COLLISION WITH
13 MULTIPLE TRAUMATIC INJURIES. RIGHT PROXIMAL ONE THIRD
14 HUMERUS FRACTURE. PATIENT NOTED TO HAVE SEVERE
15 NEUROLOGICAL DEFICITS TO THE RIGHT UPPER EXTREMITY DISTAL
16 TO THE FRACTURE. NOW, DISTAL MEANS AWAY FROM IT. SO
17 WHERE THAT FRACTURE WAS, DISTAL TO THAT OR AWAY FROM THAT
18 IS WHERE HE WAS HAVING HIS NEUROLOGICAL DEFICIT, WHAT I
19 WAS TELLING YOU ABOUT. LIKELY SEVERE TRACTION NERVE
20 INJURY AT THE TIME OF THE MOTORCYCLE COLLISION. AND HE
21 GOES ON TO TALK ABOUT WHAT'S GOING TO BE ADDRESSED, AND HE
22 DOES SAY, SEVERE NEUROLOGICAL INJURY, LIMITED PROGNOSIS OF
23 NERVE TRAUMA.

24 NOW, YES, HE TOLD MR. FERLEY, HE SAID, YOU
25 KNOW, I DON'T THINK, YOU KNOW, IT'S NOT LOOKING REAL GOOD

1 FOR YOUR ARM. I WISH IT WAS, BUT IT'S NOT; BUT WE'RE
2 GOING TO, YOU KNOW, WE'RE GOING TO TRY AND DO OUR BEST,
3 AND SO THEY -- WHEN DR., DR. AIKEN HAD ORIGINALLY FIXED
4 IT, THEY DID WHAT'S CALLED A CLOSED REDUCTION BEFORE THEY
5 PUT THE COAPTATION SPLINT ON IT AND GOT IT PERFECT. I
6 MEAN, THEY CALLED IT A NEAR ANATOMIC ALIGNMENT. HE GOT IT
7 PERFECT, AND YOU'LL SEE A PICTURE OF THAT TOO.

8 SO WHAT THEY DO NOW IS THEY ACTUALLY PUT A PIN,
9 THEY ASK THEM TO COME IN AND PUT A PIN THROUGH THE UPPER
10 PART OF THE BONE ON DOWN THROUGH THE FRACTURE AND INTO THE
11 LOWER BONE, WHICH HE DOES AGAIN -- YOU'LL SEE A PICTURE OF
12 THAT -- PERFECTLY, AND HE GETS THE BONE IN THERE PERFECT.
13 NOW, HE'S NOT OPERATING DOWN IN HERE, EXCEPT HE GOES IN
14 AND CLEANS UP THE BLISTERS SO THE PLASTIC SURGEON WON'T
15 HAVE TO DO THAT. HE CLEANS THESE BLISTERS DOWN HERE ON
16 HIS HAND AND SO ON AND SO FORTH; BUT HE GETS THAT PIN IN
17 THERE, AND THEN DR. FOLEY COMES IN.

18 DR. FOLEY OPERATES, AND DR. JENKINS HAS LEFT.
19 I MEAN, HE'S GONE. HE'S DONE, HE'S DONE THE OPERATION,
20 AND HE'S GONE. DR. FOLEY COMES IN, DOES THIS OPERATION,
21 CUTS HIM AND SAYS, OH, WELL, I FOUND SOME DEAD TISSUE.
22 WELL, MAY BE, YOU KNOW, SOMETIMES YOU HAVE DEAD TISSUE IF
23 YOU HAVE A SEVERE CRUSH OR BLUNT FORCE INJURY. THAT'S WHY
24 WE ASKED YOU ABOUT BLUNT FORCE, WHEN YOU HAVE THAT AWFUL
25 BLUNT FORCE, YOU CAN LOSE TISSUE DOWN THERE. IS THERE

1 EXTERNAL SIGN OF INJURY? SURE, YOU'VE GOT FRACTURE
2 BLISTERS UP AND DOWN HIS ARM.

3 THE COURT: MR. HERNDON, WOULD THIS BE A GOOD
4 PLACE TO STOP AND LET YOU PICK UP WITH DR. FOLEY WHEN WE
5 COME BACK?

6 MR. HERNDON: YES, YOUR HONOR.

7 THE COURT: LADIES AND GENTLEMEN, I APOLOGIZE.
8 I DO HAVE TO ATTEND TO THIS MATTER. THE BREAK WILL BE
9 LONGER THAN USUAL. IT'S A PRETTY DAY OUTSIDE. IF ONE OF
10 THE OFFICERS DON'T MIND TAKING THEM OUTSIDE, IF THE WANT
11 TO GO OUTSIDE, THAT WILL BE FINE. HOPEFULLY IN ABOUT 20,
12 30 MINUTES WE WILL RESUME, SO WE'LL BE IN RECESS UNTIL
13 THEN.

14 (RECESS AT 3:07 P.M., UNTIL 3:23 P.M.)

15 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN,
16 AGAIN, I APOLOGIZE FOR THAT DELAY. THAT WAS ONE OF THOSE
17 ADMINISTRATIVE DUTIES I WAS TALKING ABOUT TO YOU EARLIER
18 TODAY. WE'LL TRY OUR BEST TO KEEP THOSE AT A MINIMUM
19 DURING THE TRIAL. WE'RE READY TO CONTINUE.

20 MR. HERNDON, IF YOU NEED TO BACK UP AND REPEAT
21 TO PROVIDE CONTINUITY, YOU MAY DO SO.

22 MR. HERNDON: WE WERE AT, WE WERE -- HAD MOVED
23 UP TO NOVEMBER 2ND. KEEPING IN MIND THE ACCIDENT HAPPENED
24 ON OCTOBER THE 19TH, THE 25TH HE WAS EXTUBATED, THE 26TH
25 WAS WHEN THEY DISCOVERED THE FRACTURE BLISTERS ON HIS ARM,

1 THE 28TH WAS WHEN DR. FOLEY STARTS LOOKING AT HIS
2 ANTECUBITAL FOSSA TO DO THE SKIN GRAFT BECAUSE THIS SKIN
3 WAS ALREADY DEAD IN THE UPPER AND LOWER PORTION OF HIS
4 ELBOW JOINT, AND THEN THE 2ND IS WHEN THEY WENT IN TO DO
5 THE REPAIR.

6 MR. HAYNES TOLD YOU SOMETHING ABOUT THE RECORDS
7 DON'T HAVE THIS, THE RECORDS DON'T HAVE THAT, AND THE
8 RECORDS DON'T HAVE ANYTHING ABOUT COMPARTMENT SYNDROME
9 BECAUSE NOBODY, ALL THE PEOPLE THAT SAW HIM, NOBODY
10 THOUGHT HE HAD THAT, NOT EVEN DR. FOLEY WHO HAD SEEN HIM
11 MULTIPLE TIMES.

12 SO DR. FOLEY STARTS HIS OPERATION, AND HE SAYS,
13 OH, THERE'S DEAD TISSUE IN HERE. YEAH, THAT CAN HAPPEN
14 WHEN YOU HAVE SEVERE BLUNT FORCE TRAUMA. SOMETIMES IT
15 TAKES A WHILE TO DECLARE ITSELF. CAUSE SWELLING? YES, IT
16 CAUSES SWELLING. CAN IT CAUSE THIS? CAN IT CAUSE PAIN?
17 YES, IT CAN CAUSE THAT. DOES IT SOMETIMES TAKE A WHILE TO
18 SHOW ITSELF? YES.

19 WELL, ANYWAY, DR. FOLEY GOES IN, AND HE
20 OPERATES DOWN AND HE DISCOVERS SOME WHAT THEY CALL
21 NECROTIC TISSUE OR DEAD TISSUE DOWN THERE; AND SO HE SAYS,
22 WELL, I THINK I NEED TO AMPUTATE THE ARM. SO HE GOES OUT,
23 TALKS TO MRS. HALL, ANGIE HALL, AND SAYS, I REALLY NEED TO
24 TAKE THE ARM OFF. SO THAT'S EXACTLY WHAT HE DOES. AND
25 THEN HE GOES UP AND DOES AN OPERATIVE NOTE, AND IN HIS

1 OPERATIVE NOTE HE SAYS, I SUSPECT COMPARTMENT SYNDROME.
2 THAT'S EXACTLY THE WAY IT READS. I MEAN, THAT'S THE FIRST
3 TIME THAT'S EVER BEEN MENTIONED IN THE ENTIRE RECORD.

4 NOW, YOU'LL NOTE THAT DR. FOLEY, WHO I COULDN'T
5 TALK TO, BUT DID TALK TO MR. HAYNES, WAS NOT A PARTY TO
6 THIS CASE, ALTHOUGH SEVERAL WERE AS HE INDICATED EARLIER,
7 BUT HE WAS NOT. DR. FOLEY SAYS, WHEN I STARTED DOING MY
8 INCISION, IT WAS AN OH CRAP MOMENT. HE SAID, I DIDN'T
9 SUSPECT IT WHEN I WENT IN. HE SAID, WELL, WHAT ABOUT,
10 WHAT ABOUT HIS ARM? HAD YOU REALLY EXAMINED HIS ARM? HAD
11 YOU DONE A NEUROVASCULAR EXAM? NO, NEVER DID THAT. DID
12 YOU EVEN KNOW HE HAD FRACTURE BLISTERS ON HIS FOREARM?
13 NO, DIDN'T KNOW THAT. WELL, WHAT ABOUT THE SEVERE
14 LACERATION BETWEEN THESE TWO FINGERS? NO, I DIDN'T KNOW
15 ANYTHING ABOUT THAT. I MEAN, THIS IS THE ARM HE'S
16 SUPPOSED TO BE TREATING; BUT, ANYWAY, THAT'S WHAT HE PUTS
17 IN THE RECORD, SUSPECTED COMPARTMENT SYNDROME.

18 AND HE'S OPERATING WITH A RESIDENT,
19 DR. MCPHERSON. YOU'LL HEAR FROM DR. MCPHERSON. SHE'D
20 NEVER BEEN INVOLVED IN THAT KIND OF SURGERY BEFORE, HAD
21 NEVER SEEN MR. FERLEY BEFORE, SHE JUST WANTED TO SEE IT.
22 SO SHE CAME IN, AND DR. FOLEY SAYS, WELL, I SUSPECT THIS
23 IS COMPARTMENT SYNDROME; SO SHE WRITES COMPARTMENT
24 SYNDROME IN THE NOTES AND THEN EVERYBODY THEREAFTER JUST
25 REPEATS IT.

1 WE DO NOT THINK -- AND IT'S OUR POSITION IN THE
2 CASE THAT THERE WAS NOT A COMPARTMENT SYNDROME. AND, YOU
3 KNOW, I'M GOING TO CALL, I DON'T KNOW, THERE ARE GOING TO
4 BE A BUNCH THAT ARE GOING TO GET ON THE WITNESS STAND AND
5 TELL YOU HOW THEY EXAMINED IT AND WHY THEY DIDN'T THINK HE
6 EVER HAD THAT, BUT PARTICULARLY DURING THE FIRST 48 HOURS
7 WHEN YOU SEE IT.

8 YOU'RE GOING TO HEAR FROM THREE EXPERTS.
9 YOU'RE GOING TO HEAR FROM DR. WILLIAMSON FROM VIRGINIA
10 BEACH. I ASKED HIM IF HE KNEW WHAT THE STANDARD OF CARE
11 WAS IN JOHNSON CITY, HE SAID HE DIDN'T HAVE A CLUE. DID I
12 KNOW WHAT THE STANDARD OF CARE IS IN A LEVEL ONE TRAUMA
13 CENTER, BUT I DON'T HAVE A CLUE WHAT IT IS IN JOHNSON
14 CITY, THAT'S KIND OF A QUOTE; BUT HE'S MR. FERLEY'S
15 RETAINED EXPERT. HE'S THE SAME GUY THAT'S GOING TO TELL
16 YOU HE SHOULD HAVE PUT AN EX-FIX ON WHEN THEY TELL YOU
17 THAT'S NOT; BUT, ANYWAY, HE'S GOING TO SAY THEY SHOULD
18 HAVE DONE THIS AND THEY SHOULD HAVE DONE THAT IN HINDSIGHT
19 AND SO ON AND SO FORTH.

20 WE'RE CALLING TWO EXPERTS IN THE CASE. WE'RE
21 USING A DR. SMITH, HE'S WITH THE UNIVERSITY OF TENNESSEE.
22 HE'S LOOKED AT THE RECORDS. HE WASN'T SEEING JUST A
23 LITTLE PIECE OF THE RECORDS LIKE DR. FOLEY WAS. DR. FOLEY
24 DIDN'T EVEN GET -- MR. HAYNES DIDN'T EVEN SEND HIM THE
25 WHOLE RECORD. HE SAID, I JUST LOOKED AT THESE LITTLE

1 THINGS, THESE FEW THINGS YOU SENT ME. YOU CAN SEE THAT ON
2 HIS DEPOSITION. HE WAS SENT THE ENTIRE RECORD, THE
3 DEPOSITIONS, THE TESTIMONY. DR. SMITH SAID, NOT
4 COMPARTMENT SYNDROME, DIDN'T BEHAVE LIKE COMPARTMENT
5 SYNDROME, DIDN'T LOOK LIKE IT, IT WASN'T COMPARTMENT
6 SYNDROME.

7 YOU'RE GOING TO HEAR FROM DR. OBREMSKEY, THAT'S
8 ONE OF THOSE LONG NAMES. HE'S KIND OF THE HEAD TRAUMA
9 SURGEON DOWN THERE AT VANDERBILT IN NASHVILLE, AND HE
10 SAID, NO, I DON'T THINK THIS WAS COMPARTMENT SYNDROME. HE
11 LECTURES AROUND ON THIS ALL THE TIME; BUT HE SAID, NO, I
12 DON'T THINK IT WAS COMPARTMENT SYNDROME.

13 SO, YOU KNOW, DR. AIKEN WILL TELL YOU THAT IT
14 WASN'T COMPARTMENT SYNDROME, AND I THINK JUST ABOUT
15 EVERYBODY THAT'S EVER TREATED HIM WILL SAY THAT; BUT WHEN
16 YOU HAVE, YOU KNOW, AN AWFUL BLUNT TRAUMA INJURY, YOU
17 KNOW, TISSUE DIES, AND NOW YOU GO BACK AND SAY, OH, WELL,
18 YOU MUST HAVE HAD THIS OR MUST HAVE HAD THAT, THAT'S KIND
19 OF WHAT WE'RE DOING HERE.

20 SO, THE COURT WILL INSTRUCT YOU, OF COURSE, ON
21 THE LAW, AND THERE'S TWO THINGS THAT YOU HAVE TO CONSIDER,
22 TWO ISSUES. NOT JUST WAS THERE MEDICAL NEGLIGENCE, THAT
23 IS ONE DECISION THAT YOU'LL HAVE TO MAKE FOR THESE PEOPLE
24 THAT SAVED HIS LIFE, GUILTY OF MEDICAL NEGLIGENCE. YOU'LL
25 HAVE TO DECIDE THAT, BUT THE SECOND IS YOU HAVE TO DECIDE

1 WHAT CAUSED THE INJURY. WE SAY CAUSE IS THE SECOND PRONG.
2 I MEAN, IF YOU RUN A STOP SIGN, YOU DON'T HIT ANYBODY, YOU
3 KNOW; BUT CAUSE IS THE SECOND PART, AND THE COURT WILL
4 TELL YOU ABOUT CAUSE, NEGLIGENCE AND CAUSE. WE SAY NO
5 NEGLIGENCE AND WE DIDN'T CAUSE ANY DAMAGE, AND THOSE ARE
6 THE LIABILITY ISSUES THAT YOU ALL ARE GOING TO HAVE TO
7 WRESTLE WITH.

8 I KNOW YOU'LL LISTEN TO BOTH SIDES, I HOPE, AND
9 WAIT UNTIL ALL OF IT IS IN BEFORE YOU START MAKING UP YOUR
10 MINDS, AND PARTICULARLY SINCE WE'RE GOING TO BE STRUNG OUT
11 FOR A WHILE. WE DON'T THINK THAT WE OWE MR. FERLEY
12 DAMAGES, BUT WE DON'T DENY THAT HE LOST HIS ARM. WE
13 GRIEVED ABOUT IT TOO. WE CONTINUED TO TREAT HIM AFTER
14 THAT FOR A LONG TIME; OF COURSE, NOT AFTER THE LAWSUIT WAS
15 FILED, BUT FOR A LONG TIME HE WAS GETTING TREATED, AND WE
16 WORKED WITH HIM TO, OR WATAUGA WORKED WITH HIM TO, TO,
17 ACTUALLY TO GET THE SPECIAL ARM. THEY WROTE SPECIAL
18 LETTERS FOR HIM. HE HAD AN AWFUL -- HIS LEG INJURY WAS SO
19 BAD, IT TORE A LOT OF NERVES. YOU REMEMBER I WAS TELLING
20 YOU IT WAS ONE OF THE WORST DISLOCATIONS, AND IT TORE
21 NERVES. HE HAD A FOOT DROP, AND THEY WORKED WITH HIM ON
22 THAT AND -- TO GET ALL THAT WORKED OUT; AND THEY WORKED
23 WITH HIM TO GET HIS DEVICES AND ACTUALLY WENT TO BAT FOR
24 HIM TO GET THE SPECIAL ARM.

25 NOW, WHEN I TOOK HIS DEPOSITION, HE SAID, I

1 NEVER USE IT. I JUST -- IT'S STUCK IN A BOX IN MY HOUSE.
2 I JUST -- I'M AFRAID I MIGHT GET IT WET, BUT I JUST NEVER
3 USE IT. I DON'T KNOW IF HE'S GOING TO TELL YOU SOMETHING
4 DIFFERENT, BUT I ANTICIPATE, AT LEAST THAT'S WHAT HE TOLD
5 US, HE JUST NEVER -- JUST KEPT IT IN A BOX, THIS VERY
6 EXPENSIVE ARM.

7 I ASKED HIM IF HE WAS WORKING. HE SAID, YEAH,
8 I'M WORKING. HE WAS WORKING AT A PLANT UP IN SOUTHWEST
9 VIRGINIA. AND I SAID, WELL, WHEN DID YOU START? AND HE
10 TOLD ME. AND I SAID, WELL, HAD YOU NOT BEEN BACK TRYING
11 TO WORK BEFORE THEN? HE SAID, WELL, MY LEG WAS REALLY
12 BOTHERING ME SO BAD I GOT HOOKED ON PAIN PILLS, AND IT
13 TOOK A WHILE TO GET STRAIGHTENED OUT FROM THAT; AND WHEN I
14 DID, I WENT TO WORK; AND HE DID WORK THERE FOR ABOUT SEVEN
15 MONTHS, I THINK, AS FAR AS I CAN TELL. I HAVE NOT DEPOSED
16 HIM SINCE -- IT'S BEEN SIX OR SEVEN MONTHS AGO OR WHENEVER
17 IT IS; BUT WHEN WE WERE TAKING THE DEPOSITION OF THE
18 PERSON THAT PUTS THE DEVICES, THAT FITS THE DEVICES ON, HE
19 SAID, OH, TREVOR HAS QUIT WORK. I SAID, WHAT? HE SAID,
20 YEAH. AND SO HE'S NOT WORKING NOW. AND I THINK WHAT THE,
21 WHAT THE RECORD WILL SHOW IS HE GOT APPROVED FOR
22 DISABILITY. YOU CAN'T -- IF YOU WORK, YOU CAN'T DRAW FULL
23 DISABILITY, SO HE'S QUIT WORK. HE'S DOING THAT NOW. SO
24 THAT IS AS MUCH AS I KNOW THAT I CAN TELL YOU ABOUT THAT
25 RIGHT NOW. WE'LL SEE HOW IT COMES OUT AS WE PROCEED IN

1 THIS TRIAL.

2 THANK YOU FOR LISTENING. I KNOW IT'S BEEN TOO
3 LONG, I APOLOGIZE, BUT THERE'S A LOT OF COMPLICATED STUFF
4 IN HERE. IF YOU WAIT TO HEAR ALL OF IT, I HOPE YOU RETURN
5 A VERDICT FOR THE DEFENDANT. THANK YOU.

6 I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM
7 THE RECORD OF PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

8

9

10 KAREN J. BRADLEY/S
11 SIGNATURE OF COURT REPORTER

9/26/13
DATE

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